

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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LAURICE MCCURDY,
Plaintiff,

v.

LEROY KIRKEGARD, et al.,
Defendants.

2:08-CV-01742-PMP-PAL

ORDER

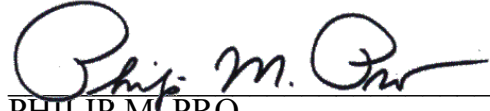
On July 7, 2011, the Clerk of Court received the Order of the Court of Appeals (Doc. #127) remanding this case to the undersigned for the limited purpose of ruling on Plaintiff/Appellant's June 6, 2011 request. Unfortunately, this Court's CM/ECF system did not flag the Order of the Court of Appeals and the undersigned was unaware of it until this date. Having reviewed the record, the undersigned finds that although this Court's Order and Judgment (Doc. #115, #116) were entered March 4, 2011, and distributed by the Clerk that date, it does appear Plaintiff McCurdy did not receive actual notice of the Order and Judgment until after he requested a copy in his request for court document (Doc. #122) filed June 3, 2011. As a result it appears his notice of appeal (Doc. #123) filed June 6, 2011, was timely.

Therefore, in accord with Federal Rule of Appellate Procedure 4(a)(6), this Court finds Plaintiff/Appellant should be granted the extension of time requested to file his notice of appeal, and the notice of appeal filed by Plaintiff/Appellant McCurdy (Doc. #123) on June 6, 2011, should be deemed timely. IT IS SO ORDERED.

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1 IT IS FURTHER ORDERED that the Clerk of this Court shall forthwith cause a
2 copy of this Order to be sent to the Clerk of Court for the Court of Appeals for the Ninth
3 Circuit.

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5 DATED: February 16, 2012

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7 PHILIP M. PRO
8 United States District Judge
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